

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5604
Facsimile: (415) 703-5480
6
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2006-1134

11 **CATHY LOUISE NICHOLAS**
12 25 S 23rd Street
San Jose, CA 95116

A C C U S A T I O N

13 Psychiatric Technician License No. PT 26286

14 Respondent.
15

16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
19 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
20 Nursing and Psychiatric Technicians.

21 2. On or about April 17, 1989, the Board of Vocational Nursing and
22 Psychiatric Technicians issued Psychiatric Technician License Number PT 26286 to Cathy
23 Louise Nichols (Respondent). The Psychiatric Technician License was in full force and effect at
24 all times relevant to the charges brought herein and will expire on July 31, 2009, unless renewed.
25

JURISDICTION

26 3. This Accusation is brought before the Board of Vocational Nursing and
27 Psychiatric Technicians (Board), under the authority of the following laws. All section
28

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 4520 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board may discipline any licensed psychiatric technician for any reason
5 provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code
6 § 4500, et. seq.)

7 5. Section 118(b) of the Code provides, in pertinent part, that the expiration
8 of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during
9 the period within which the license may be renewed, restored, reissued or reinstated. Under
10 section 4545 of the Code, the Bureau may renew an expired license at any time within four years
11 after the expiration.

12 6. Section 4521 of the Code states, in relevant part:

13 "The board may suspend or revoke a license issued under this chapter [the
14 Psychiatric Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:

15 "(a) Unprofessional conduct, which includes but is not limited to any of the
16 following:

17 (1) Incompetence or gross negligence in carrying out usual psychiatric technician
18 functions.

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20 7. Section 4521.6 of the Code states, in relevant part:

21 "The board may deny any application or may suspend or revoke any license or
22 permit issued under this chapter [the Psychiatric Technicians Law], for any of the following:

23 "(a) The denial of licensure, suspension, restriction of license, or voluntary
24 surrender following the initiation of disciplinary action by another state or other government
25 agency, of a license, registration, permit, or certificate to practice as a health care professional
26 shall constitute grounds for denial of a permit or license or for disciplinary action against a
27 licensee. A certified copy of the finding from another state which establishes an act which if
28 committed in California would be grounds for discipline shall be conclusive evidence of that

1 action.

2
3 8. Section 125.3 of the Code provides, in pertinent part, that a Board may
4 request the administrative law judge to direct a licensee found to have committed a violation or
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
6 and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Gross Negligence)**

9 9. Respondent is subject to disciplinary action under section 4521(a)(1) of
10 the Code, on the grounds of unprofessional conduct, in that on or about November 29, 2006, at
11 approximately 02:35 hours, while on duty as a psychiatric technician at Agnews Developmental
12 Center in San Jose, California (Agnews), Respondent committed gross negligence in her
13 treatment of Client Trang N., as follows:

14 a. Respondent failed to obtain a physician's order for the use of a restrictive
15 behavioral device, a restraint mitten, on Client Trang N., in violation of Agnews' policies and
16 procedures.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Incompetence)**

19 10. Respondent is subject to disciplinary action under section 4521(a)(1) of
20 the Code, on the grounds of unprofessional conduct, in that on or about November 29, 2006, at
21 approximately 02:35 hours, while on duty as a psychiatric technician at Agnews, Respondent was
22 incompetent in her treatment of Client Trang N., as set forth in paragraph 9, above.

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28 1. Initials are used in order to preserve confidentiality. Full patient names will be
disclosed pursuant to a request for discovery.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by State Agency)**

3 11. Respondent is subject to disciplinary action under section 4521.6(a) of the
4 Code, in that she was disciplined by another state agency, as follows:

5 a. On or about April 23, 2007, while employed as a psychiatric technician at
6 the State of California, Health and Human Services Agency, Department of Developmental
7 Services, Agnews Developmental Center, Respondent was issued a Adverse Action.

8 b. Respondent's salary was reduced ten (10) percent for six (6) months in her
9 position as Senior Psychiatric Technician.

10 c. The Adverse Action was based on multiple violations of Government
11 Code section 19572, including subsection (b) (incompetency), subsection (d) (inexcusable
12 neglect of duty), subsection (o) (willful disobedience), and subsection (t) (other failure of good
13 behavior either during or outside of duty hours which is of such a nature that it causes discredit to
14 the appointing authority or the person's employment).

15 d. The underlying circumstances are that, on or about November 29, 2006, at
16 approximately 02:35 hours, Respondent failed to follow and adhere to the policies and
17 procedures involving the use of behavioral restraints that were placed on Client Trang N., in that
18 she failed to provide any documentation in the IDN regarding the placing of a glove on client
19 Trang N., failed to obtain a physician's order for the use of a restrictive intervention (glove) prior
20 to placing the glove on client Trang N., failed to document the use and application of the glove
21 on the restraint record, and failed to immediately notify the HSS/ACNS when she implemented a
22 restrictive intervention.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Disciplinary Action by State Agency)**

25 12. Respondent is subject to disciplinary action under section 4521.6(a) of the
26 Code, in that she was disciplined by another state agency, as follows:

27 a. On or about November 28, 2006, while employed as a psychiatric
28 technician at the State of California, Health and Human Services Agency, Department of

1 Developmental Services, Agnews Developmental Center, Respondent was issued a Adverse
2 Action.

3 b. Respondent's salary was reduced five (5) percent for six (6) months in her
4 position as Senior Psychiatric Technician.

5 c. The Adverse Action was based on multiple violations of Government
6 Code section 19572, including subsection (c) (inefficiency), subsection (d) (inexcusable neglect
7 of duty), and subsection (t) (other failure of good behavior either during or outside of duty hours
8 which is of such a nature that it causes discredit to the appointing authority or the person's
9 employment).

10 d. The underlying circumstances are that, on or about June 10, 2006,
11 Respondent failed to follow procedures for breaks and to provide leadership, direction and proper
12 supervision. Moreover, on or about August 4, 2006, Respondent neglected her responsibility as a
13 Shift Supervisor in that she failed to assure that staff was awake and alert while they were on
14 duty.

15 **PRAYER**


16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board issue a decision:

18 1. Revoking or suspending Psychiatric Technician License Number PT
19 26286, issued to Cathy Louise Nichols;

20 2. Ordering Cathy Louise Nichols to pay the Board the reasonable costs of
21 the investigation and enforcement of this case, pursuant to Business and Professions Code
22 section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: March 17, 2009

25 
26 TERESA BELLO-JONES, J.D., M.S.N., R.N.
27 Executive Officer
28 Board of Vocational Nursing and Psychiatric Technicians
State of California
Complainant